UNITED NATIONS CONFERENCE ON TRADE AND DEVELOPMENT

# Report of the Standing Committee on Developing Services Sectors: Fostering Competitive Services Sectors in Developing Countries on its third session

held at the Palais des Nations, Geneva,
from 25 to 29 September 1995

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# REPORT OF THE STANDING COMMITTEE ON DEVELOPING SERVICES SECTORS: FOSTERING COMPETITIVE SERVICES SECTORS IN DEVELOPING COUNTRIES ON ITS THIRD SESSION

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## INTRODUCTION

1. The Standing Committee on Developing Services Sectors: Fostering Competitive Services Sectors in Developing Countries held its third session at the Palais des Nations, Geneva, from 25 to 29 September 1995.

2. In the course of its session, the Standing Committee held five formal plenary meetings (11th to 15th) and five informal meetings.

### Opening statements

3. The Deputy to the Secretary-General of UNCTAD noted that the current session was the last before UNCTAD IX where "Promoting international trade as an instrument for development in the post-Uruguay Round world" would figure prominently on the agenda, particularly in regard to capacity-building in the developing countries' services' sector and the expansion of trading opportunities maximizing the developmental impact of globalization and liberalization of trade. The perception that developing countries could compete more effectively in the world market for services if they had better access to distribution channels and information networks had led to commitments being made under the General Agreement on Trade in Services (GATS). This concern was likewise reflected in the Cartagena Commitment and hence in the Standing Committee's work programme. However, along with the new opportunities there were new challenges. Most developing countries were finding it hard to mobilize the negotiating strength necessary to exercise their rights under GATS when dealing with transnational corporations and their home countries. Moreover, many issues fell outside the scope of intergovernmental negotiations. National policies could play a strong role and developing country Governments were being strongly encouraged to direct their efforts towards fortifying the negotiating position of their private firms, for example in seeking improved access to proprietary services' distribution networks. Modernization and expansion of infrastructure, especially telecommunications, information services and human resources development, emphasizing knowledge-intensive services, were important in this regard. Firms could be established to provide services to facilitate access to networks. Problems related to the temporary movement of persons still needed to be resolved. To this end, transparency and predictability of regulations were deemed essential. In addressing agenda items 3 and 4, the Standing Committee would be focused on the "modes of supply" most readily available to developing countries in their efforts to penetrate world markets for services and integrate into the process of globalization of trade.

4. He then outlined the progress made on the implementation of the work programme, including refinement of the database on measures affecting trade in services (MAST) with respect to laws and regulations. Technical assistance had been provided in regard to regional and subregional cooperation agreements on services. UNCTAD in cooperation with UNDP had also been providing technical assistance to developing countries on the design of national policies to strengthen the sector. He reiterated the call made at the second session for the establishment of a trust fund in UNCTAD devoted to technical assistance, and reported that several donors had already come forth in support of this effort, namely, the Government of France, the Carnegie Foundation of the United States and the IDRC of Canada.

5. In closing, he emphasized that the ability of developing countries to foster the services needed for efficient, innovative production, to develop their competitive capacities and to overcome the barriers to their services exports was the key factor in maximizing the developmental impact of globalization. Whatever the Standing Committee could do to advance understanding and consensus on the issues would form a central contribution to meeting the challenges.

6. The **Chairman** drew attention to the importance of the work programme set for the Standing Committee in Cartagena. The two key issues on the agenda for the present final session before UNCTAD IX related to access to networks and liberalization concerns and the difficulties facing developing countries in increasing their participation in world trade in services. The progress report prepared by the secretariat on the implementation of the work programme was also before the Committee for its consideration of the future orientation of work in preparation for UNCTAD IX, in the context of paragraph 76 of the Cartagena Commitment. She pointed out that the current session constituted essentially only the second substantive session. Owing to constraints of time and resources, the Standing Committee would not be able to cover its entire work programme. The outcome of the work to date and especially the two main agenda items held particular relevance for the theme of UNCTAD IX, namely globalization and liberalization. Increased participation of developing countries in world trade in services - notably through information networks and via the temporary movement of persons - was crucial to the efforts of developing countries to draw benefits from the process of globalization. The Cartagena Commitment recognized that the development of competitive services warranted the support of the international community. This concept found its way into GATS which takes account of the asymmetry of competitive positions and delivery capabilities of services as between developed and developing countries in its balance of rights and obligations, notably in article IV. The impact of progressive liberalization in the field of services merited thorough consideration. Furthermore, looking at ways of enhancing information networks and distribution channels involved more than putting into effect or rendering article IV B operational. While improving access to international networks was one of the commitments under article IV, others should also be examined.

7. She then noted that her personal involvement in the recent sectoral negotiations under GATS had made her aware of the need of developing countries for more information about the barriers facing their trade in services so as to permit their effective participation in such negotiations. Information was also vital for negotiations in the regional context. UNCTAD through the Standing Committee had contributed and should continue to contribute to fulfilling that objective. The work of the Standing Committee had also led to a clearer identification of the opportunities presented to the developing countries to exploit and enhance their comparative advantage in labour and skills in essential services which could be delivered through information networks. It had also assisted in the identification of the prerequisites for liberalization of trade in services in terms of regulatory structures and capacity-building. These issues had been clearly reflected and carefully studied in the documentation before the session. She believed, however, that their complexity and importance would probably - without in any way prejudging the outcome of discussions during the current session - necessitate further work by delegations, with a view to enabling the developing countries to

extract maximum benefit from the externalization of services in the production process as well as help them build the necessary infrastructure and capacity to make better use of the opportunities available, particularly in those service sectors where they held a comparative advantage.

8. The session would be devoted to clarifying the issues involved so that a clear message could be sent to the Trade and Development Board in the report of the session. This would help identify the decisions to be taken at UNCTAD IX. At the current juncture, it was necessary to assess what had been done in terms of implementing the Cartagena Commitment and so set the stage for dealing with the unfinished business and engender new ideas to make the work fit better into the new multilateral trading system now evolving within the framework of the new commitments in the Uruguay Round and the perceived difficulties in their implementation, particularly for developing countries.

9. She then announced that informal meetings during the session which were to have benefited from the participation of a panel of experts had been unavoidably altered due to a budget freeze affecting travel. Last minute arrangements were being made to allow some members of the panel to make their presentations from their home countries over telecommunications links. A presentation of the revised version of the MAST database would also be given during the informal meetings. The progress report and the elements of the report to the Trade and Development Board would be discussed during the session.

## Chapter I

## WAYS OF ENHANCING ACCESS TO AND USE OF INFORMATION NETWORKS AND DISTRIBUTION CHANNELS

(Agenda item 3)

and

## IMPACT OF PROGRESSIVE LIBERALIZATION AND OF SERVICE IMPORTS ON THE DEVELOPMENT OF COMPETITIVE SERVICES SECTORS, AND THE DIFFICULTIES FACED BY DEVELOPING COUNTRIES WHICH PREVENT THEM FROM INCREASING THEIR PARTICIPATION IN WORLD TRADE IN SERVICES

(Agenda item 4)

10. At its 11th plenary meeting on 26 September 1995, the Standing Committee decided to take up agenda items 3 and 4 together. For its consideration of these agenda items, the Standing Committee had before it the following documentation:

> "Ways of enhancing access to and use of information networks and distribution channels," report by the UNCTAD secretariat (TD/B/CN.4/42);
>
> "Impact of progressive liberalization and of service imports on the development of competitive services sectors, and the difficulties faced by developing countries which prevent them from increasing their participation in world trade in services," report by the UNCTAD secretariat (TD/B/CN.4/43).

11. The **Chief of the Services Section**, in introducing TD/B/CN.4/42, pointed out that the belief that developing countries could compete more effectively in the world market for services if they had better access to distribution channels and information networks had led to certain commitments in favour of developing countries being included in the GATS and in the Cartagena Commitment. Technological advance and the process of globalization had undoubtedly created both new opportunities and new challenges for developing country exporters of services, as information networks were becoming distribution channels for the export of labour- and knowledge-intensive services. In its report, the secretariat had drawn upon the contributions made in the Group of Experts, which met in Madrid from 1 to 3 February 1995 with the support of Fundacion Espanola para la Promotion de la Informacion Automatizada (FUINCA). Several services sectors which traded through information networks had been examined at that meeting with a view to better understanding and identifying practical problems faced by developing countries. These problems, which had differing impacts, depending on the sector concerned, included: the dominant position of transnational corporations, the progressive integration of producers, intermediaries and outlets, the existence of new forms of anti-competitive practices, limited telecommunications capacity, inappropriate regulations and restrictions on telecommunications and information sectors, over-elaborate protocols for access and other security measures, inadequate intellectual property protection, high costs for small users, lack of skills and necessary equipment, lack of knowledge about information networks, export controls,

language barriers, and restrictive immigration laws impeding the complementary movement of technical personnel. Some of these problems could be dealt with at the national level through the formulation of "access strategies"; others required action at the international level, including in the context of GATS. The developing countries required the support of the international community in addressing these problems.

12. In introducing TD/B/CN.4/43, he noted that the issue of the impact of progressive liberalization and of service imports in the development of competitive service sectors had been examined in earlier UNCTAD documentation. The report thus concentrated on identifying appropriate complementary policy measures which developing countries might take to strengthen the competitiveness of their service sectors in support of the process of liberalization. As requested at the second session, the examination of the difficulties faced by developing countries in increasing their participation in world trade in services focused on problems relating to the temporary movement of persons. The analysis, which took account of the results of the recently concluded negotiations under GATS auspices, had stressed the need for transparency and predictability in the application of immigration regulations to permit service suppliers in developing countries to draw effective benefits from these GATS commitments, and, in general, increase their participation in the global search for expertise through globalization. A series of specific problems had been identified relating to the use of economic needs tests and other criteria for temporary entry while the positive action of certain countries to provide transparency was noted. The report had likewise "floated" certain ideas as to how adverse impacts on developing country service suppliers could be mitigated.

13. The representative of **FUINCA** (Fundación Española para el Fomento de la Información Automatizada) and director of sectoral and international programmes reported on the Expert Group Meeting on Access to and Use of Information Networks and Distribution Channels which took place in Madrid from 1 to 3 February 1995, held jointly by FUINCA and UNCTAD. The meeting had been attended by 30 experts who discussed the problems and possible solutions related to the development of adequate infrastructure and technical capacity by developing countries so as to obtain "effective access" to information networks and distribution channels. The discussions drew on general or horizontal issues as well as on specific experience from areas as varied as business and professional services, audiovisual services, tourism and transport, as well as networks and their regulatory implications. Among the major barriers identified were: (a) market concentration, (b) restrictions related to data protection and trade in software, (c) discriminatory practices in access to basic telecommunications networks which subjected foreign service providers to unfair restrictions on use of equipment, licensing requirements and interconnection to domestic networks, (d) lack of control over cartel practices of domestic providers of proprietary networks, and (e) high cost for small users. He underlined that the Expert Group had concluded by highlighting the need for developing countries to adopt a strategy for obtaining effective access to networks and distribution channels, including policy measures at the national and international levels. At the national level, the development of telecommunications and computer-related infrastructure remained a priority. The enhancement of human capital through higher educational facilities as well as through improved training was of major importance. At the international level, there was a need for

multilateral efforts to make the provisions of Article IV of the GATS effective and operational. For this, a set of multilateral principles including a code of conduct that would facilitate equitable access to and effective use of information networks and distribution channels would need to be formulated and accepted multilaterally. In appropriate international forums, developing countries might also need to press for the acceptance of international standards rather than national and regional ones. In closing he emphasized that FUINCA would continue supporting UNCTAD's work in this area and other technical assistance projects of common interest.

14. The spokesman for the **African Group** (Tunisia) noted the relevance of the agenda with its focus on the technological revolution and the difficulties faced by developing countries in trying to increase their participation in world trade in services. The UNCTAD secretariat in TD/B/CN.4/42 had underlined the increasing importance of access to and use of information and distribution channels. The Committee on Science and Technology for Development was also emphasizing, over the next two years, information technology. The UNCTAD report had noted that some developing countries were encouraging cooperation with foreign firms, in order to increase their services exports and strengthen national skills. However, no African country had as yet been cited in this category. Cooperation with foreign firms with a view to accessing information networks and distribution channels seemed to be the shortest way to international markets. Given the domination of markets by firms from developed countries, some developing countries might have been inclined to resist liberalization in the services sector at both national and regional levels. Nevertheless, in view of the strategic role of services in the development process, developing countries had joined in the GATS, which broadly responded to their specific needs and would enable them to benefit from the process of progressive liberalization. While globalization of production had offered developing countries the possibility to participate in the supply of various services with their comparative advantage of low costs, significant barriers still remained. As the UNCTAD report had underlined, the main difficulty faced by developing countries in their efforts to access and use information and distribution channels was their lack of technological, financial and human resources, a particular hindrance in the tourism sector, an area vital to developing countries. In order to overcome these difficulties, the UNCTAD report had recommended international cooperation and strategies to solve specific problems. African countries in particular needed financial and technical assistance from the international community in order to acquire appropriate technologies, as well as a better knowledge of market mechanisms, for modernizing their telecommunications infrastructure and becoming more competitive. Special consideration in this regard should be given to the least developed countries (LDCs). UNCTAD should attempt to identify sectors where LDCs had a comparative advantage, such as movement of natural persons across borders, in particular skilled persons, as well as the best ways to strengthen the services sector. Such work could also assist the LDCs in negotiating their schedules in the GATS. The African Group called for respect and consolidation of advantages accorded to developing countries under Article IV of the GATS.

15. The African Group deemed the case studies prepared by the UNCTAD secretariat - some of which concerned African countries - useful in identifying specific problems of each country and each sector, and supported the activities of UNCTAD in this area. It would be helpful if these studies

eventually went beyond analysis to propose practical recommendations and concrete measures as well. Despite the fact that the services market was dominated by firms from developed countries, it was known that developing countries which had liberalized their economies could, with some assistance, gain access to international markets and become integrated into the global economy.

16. In reference to the considerable achievement made on the work programme, she said that her Group considered the technical cooperation programme, in general, and the Coordinated African Programme of Assistance on Services (CAPAS) in particular, to be a matter of high priority. She then expressed satisfaction with progress on the MAST database. In closing she reaffirmed the African Group's support for efforts to fulfil the Standing Committee's mandate under the Cartagena Commitment, taking into account the conclusion of the Uruguay Round.

17. The representative of **Egypt** underscored the complexity of the issues facing the international community, in general, and developing countries in particular, with regard to the services sectors. Much work remained to be done so as to address fully the objectives agreed upon in Cartagena; several new emerging issues should be studied seriously and acted upon for developing countries to be able to compete successfully in the services sectors. Commenting on the reports under consideration, he expressed appreciation for the efforts of the UNCTAD secretariat in revising the MAST database and declared that his country was willing to cooperate with UNCTAD in this area. The questionnaire prepared by the UNCTAD secretariat with the objective of identifying policy options for developing countries to strengthen their service sectors would be sent to the pertinent national authorities for action. He underlined the importance for Egypt of the issue of the temporary movement of persons and regional cooperation. Given the great importance that his country attached to the role of joint ventures for stimulating the services sectors in developing countries, he suggested further studies be aimed at understanding the issues and assisting developing countries in formulating policies that would help them increase their services exports. UNCTAD had an important role to play in assisting developing countries to reap benefits from the provisions of GATS in their favour. Finally, he said that his country supported the proposal to establish a trust fund to enable UNCTAD to continue its technical assistance programmes to strengthen developing countries' production and trade capacity in services.

18. The spokesman for the **Asian Group** (Sri Lanka) referred to the great importance attached to the work of UNCTAD in the area of services. Member countries had benefited from this work even prior to the establishment of the Standing Committee. Hence the Group had endorsed paragraph 184 of the Cartagena Commitment. UNCTAD's subsequent support in assessing the results of the Uruguay Round in terms of market opportunities and policy actions to enhance services exports and participation in world trade in services was highly appreciated. If the developing countries were to derive benefits from the process of liberalization and globalization, it was essential that they increase and strengthen their participation in international trade in services. In this they faced two major constraints: (a) building a competitive capacity in the services sector; and (b) delivering these services to export markets. The secretariat report on "Ways of enhancing access to and

use of information networks and distribution channels" constituted a significant contribution to the understanding of the issues involved. It had also identified barriers to such access by the developing country exporters and proposed possible actions to remove or overcome them.

19. Another area of major interest to the Asian Group was the temporary movement of natural persons as service providers. The secretariat report on this issue could have been more comprehensive. The outcome of the recent negotiation on movement of persons under the auspices of GATS had been disappointing and developing countries needed to organize themselves in order to promote their vital interests in this sector. Within the scope of existing legislation and the commitments, developed countries could provide a greater degree of transparency and predictability which would enhance the ability of developing countries to participate in world trade in services and to benefit from the global demand for expertise and skills. More transparency was needed in individual national immigration legislation relevant to the mode of movement of persons in trade in services so that the value of commitments in these areas could be assessed. Economic needs test and quotas should be made less onerous barriers to trade in services by (a) reducing their scope; (b) introducing transparency in the criteria; (c) bindings; and (d) supplementing the criteria by "minimum access commitments". Unlike the transnational corporations in developed countries, for most developing countries, investment and commercial presence was not a realistic mode of supply of services. They had to depend on other means, such as cross-border supply through information networks or through the temporary movement of persons. Given the remaining tasks of the work programme and emerging new issues relevant to developing countries, the Asian Group strongly believed that UNCTAD's role in this sector should be enhanced. UNCTAD should continue its work after the Ninth Conference through a mechanism such as the present Standing Committee.

20. Stressing the importance which her country placed on trade in services through the movement of natural persons mode of delivery, the representative of **India** expressed concern over the remaining onerous, non-transparent conditionalities attached to the movement of natural persons following the GATS negotiations. These conditionalities included economic needs tests, licensing requirements, authorization requirements, nationality and citizenship requirements, and various conditions set on the employer in the form of wage parity, retention of local labour, etc. Entry regulations are not subject to the GATS disciplines; over the period that the negotiations were in progress, entry regulations were modified by some major trading partners to the detriment of foreign service providers. Given the fact that the ongoing sectoral negotiations under the GATS had been in sectors mainly of interest to the industrialized countries, for example, telecommunications in the absence of greater market access to skilled personnel, it would be difficult for India to make meaningful commitments in the sectors concerned.

21. India would welcome further work within UNCTAD on (a) an in-depth study on the offers made in the area of movement of natural persons and the additionality in market access made available to developing country exports of services as a result of the offers as compared to the pre-Uruguay Round situation; (b) ways and means to make Article IV of the GATS operational in the context of the negotiations of specific commitments and the imposition of conditions on market access and national treatment; (c) specific case studies

of some of the major services' sectors of export interest to developing countries, in particular the manner in which subsidies contribute to the growth and competitiveness of services' sectors in developing countries and the extent to which the use of subsidies in potential importing countries hampered developing country exports of services; (d) defining what would constitute a balanced outcome regarding government procurement in view of its importance for the functioning of a number of services sectors in the developing countries; (e) adverse trade effects for the services exports of developing countries arising from situations of concentration of ownership, market domination and restrictive business practices in the area of services; (f) technology transfer in the services industries, particularly in know-how, licensing, franchising and anti-competitive practices of market operators; (g) better access by developing countries to information networks; and (h) the service-environment interface and its implications for exports from developing countries. India considered that a mechanism like the Standing Committee would remain necessary given the large number of new issues on the WTO agenda on trade in services, and so focused work under the aegis of UNCTAD should continue.

22. The representative of the **Dominican Republic** said that the secretariat's work on item 3 would play a major role in strengthening the participation of developing countries in current and future negotiations at multilateral and regional levels. In future work it would be useful to explore in more detail the role played by access to and use of networks for the provision of services related to trade in goods because networks were an important means to expedite the reception of production orders that included increasingly detailed graphics of the designs to be manufactured. These designs were often encrypted. The algorithms needed in order to decrypt these messages were often kept secret. Without them suppliers were unable to participate in the public tenders called to allocate production orders. From the point of view of the Dominican Republic, the status of encryption/decryption algorithms formed a barrier to increasing participation of developing countries in trade in services through international networks. As such, it was a clear violation of Article IV of the GATS. This point could have been given greater emphasis in the secretariat document. Moreover the real revolution taking place in the provision of services through networks merited more coverage. Developing countries could benefit from a more detailed study of the impact of the Internet on effective access and use of networks. The potential for direct marketing of services by means of multimedia technology, available through the Internet since 1993, was significant; hence a strong relationship existed between effective access and use of networks and the competitiveness of the telecommunications sector. National studies could complement work in this area, as proposed in the document on progressive liberalization of services. Such studies were crucial for steering national development and negotiating coherent strategies. She then called for changes in the modus operandi of UNCTAD to allow for fulfilment of the Committee's mandate. The working procedures must be modified along with the institutional setup of the Standing Committee. Its mandate should be closely linked to a strategic and financial plan that would govern the use of the trust fund agreed on at the second session. Action in this regard was urgent.

23. The representative of **Mexico** highlighted the importance of the collaboration between FUINCA and UNCTAD for the launching of the Group of Experts on Access to Networks and Distribution Channels. This collaboration

had provided valuable elements for the preparation of TD/B/CN.4/42 in support of discussions on item 3. Paragraph 80 of the document had identified key elements where action could be taken by the international community in support of increasing participation of developing countries in world trade in services, including through (a) formulating strategies to develop national capacity to participate effectively in information networks; (b) exploring strategies for fostering intermediate services firms to facilitate access to global information networks and distribution channels; (c) studying the financial problems facing developing countries in accessing and using networks and distribution channels and exploring ways to reduce the financial burden; (d) assisting developing countries to participate in setting up global standards regarding advanced information networks and electronic data interchange, and conforming to such standards; (e) studying the implications of increasing commercial applications of advanced information networks such as the Internet; (f) adopting a set of principles which would facilitate the attainment of development objectives of GATS Articles IV, XIX and the Telecommunications Annex, in recognition of the weaker negotiating position of developing countries. He recommended that the UNCTAD secretariat continue activities in this area through regular meetings of the above-mentioned Group of Experts.

24. The representative of **China** stated appreciation for the efforts made by the secretariat in studying and analysing the existing problems faced by developing countries in this sector. While noting that along with the advancement of science and technology an increasing variety of services could be supplied through information networks, such networks not only provided information about services offers but also constituted the channel for distributing the service itself. As noted in the secretariat's report, the information networks were closely linked with the various services, business, professional, audiovisual and tourism. However, for the effective participation of developing countries in the global information networks and distribution channels many problems had had to be overcome. Apart from the dominant position of the transnational corporations (TNCs), with their advantages in terms of both technology and human skills, due to the limited telecommunications capacity and the lack of human and technological resources, developing countries faced the complexity of telecommunications regulations and inadequate basic telecommunications infrastructure. Expanding developing countries' access to global information networks and distribution channels was the key to increasing their participation in international trade in services. In this connection, he pointed out that the GATS had provided that increased participation of developing countries should be facilitated through negotiated specific commitments to improve access to the global distribution channels and information networks. In light of the spirit of the Uruguay Round Agreements and in recognition of the weakness of the developing countries in the area of trade in services, he called upon the international community to adopt a set of principles that would assist developing countries to participate in the global information networks and distribution channels. International cooperation should be encouraged so as: to help developing countries in formulating their own strategies for effective access to these networks and channels; to familiarize them with the international standards and regulations concerning information networks; and to enhance their human skills through increased training. UNCTAD should also strengthen its cooperation with other relevant organizations, with a view to creating more opportunities for technical cooperation and exchange of experience among countries.

25. He also noted that the globalization of production had increased the demand for human resources and faster movement of natural persons. The fact that GATS included the movement of natural persons as a mode of supply of services was a step in the right direction. However, strict domestic laws and regulations, as well as complex approval procedures in various countries and the use of economic needs tests and quotas had restricted the mobility of labour, particularly that of ordinary skilled workers. In this connection, the international community, and especially the developed countries, should endeavour to improve laws and regulations and increase the transparency and predictability of commitments so that the developing countries could fully take advantage of their labour-intensive services on offer.

26. The representative of the **World Tourism Organization** indicated that, for developing countries, with their resources and attractions, tourism services represented a viable growth sector. Moreover, such resources were in the category of "renewable" to the extent as they were not depleted or damaged. Actual participation of developing countries in world trade in tourism services remained clouded, however, by such phenomena as: (a) retention of economic benefits from tourism in the distribution channels managed from within the tourist generating countries; (b) low remuneration of destination services; (c) virtual non-remuneration of economically-unaccounted-for natural resources; (d) non-retention by destination countries of resources to maintain tourism facilities in operating order; (e) leakages of qualified human resources. These problems could be only partially solved by negotiating and balancing commitments and concessions and by obtaining information from developed countries' contact points. In order to produce and retain tourism-accrued benefits, the countries concerned should develop and enhance their own genuine tourism products, concentrating on their quality and authenticity, and increase effectively their economically sustainable participation in world trade in tourism services. Finally, he suggested that the problem of access and presence and of mobility of natural persons, i.e. individual tourism services suppliers, might also be addressed by approaching and analysing the possibilities inherent in what is meant in the GATS terminology: "supply of a service", i.e. "the production, distribution, marketing, sale and delivery of a service".

27. The representative of the **World Trade Organization** (WTO), referring to the services negotiations in the context of GATS, said that four sectors were planned for ongoing negotiations, as adopted at Marrakesh on 15 April 1994. On financial services, of at least 80 WTO members with commitments in the sector, around 29 had offered improvements in the extended financial services' negotiations which ended on 28 July 1995. The resulting agreement on financial services meant that the best offers negotiated over the past two years, with few exceptions, would be implemented for an initial period up to 1 November 1997 when members would again have an opportunity (during the following 60 days) to modify or improve their offers on financial services schedules and to take MFN exemptions in the sector. The Protocol to which the new financial services schedules were annexed was open for acceptance until 30 June 1996 to allow for domestic ratification procedures. The Protocol, and therefore the commitments, would enter into force 30 days after acceptance by all members concerned. If by 1 July 1996 all concerned had not accepted the Protocol, a decision would be taken within 30 days regarding its entry into force. During the period prior to entry into force, members had undertaken not to take measures inconsistent with their future commitments.

28. On the movement of natural persons, further negotiations were being carried out under the terms of the relevant Ministerial Decision adopted at Marrakesh on 15 April 1994. In total, nine meetings of the negotiating group had been held between May 1994 and July 1995, resulting in six sets of commitments on movement of natural persons. These six commitments were annexed to the Third Protocol to the GATS (Australia, Canada, European Community and its member States, India, Norway and Switzerland). The Protocol would enter into force at the end of January 1996 for those members which had accepted it by that date. It would be open for acceptance by members until 30 June 1996. The commitments would guarantee new opportunities in many markets for individual service suppliers - qualified professionals, computer specialists, experts of various kinds - to work abroad in an individual capacity, without the requirement that they be linked with a commercial presence. The commitments would contribute to the increasing participation of developing countries through liberalization of market access in sectors and modes of supply of export interest to them.

29. He said that the participants in the Negotiating Group on Basic Telecommunications had discussed a wide variety of specific technical and regulatory issues, and also engaged in several rounds of bilateral request/offer negotiations on possible commitments. Participants had begun submitting initial offers in writing on 31 July 1995. Thus far, eight initial offers had been received (Australia, Canada, Hong Kong, Japan, Mexico, New Zealand, Slovak Republic and the United States). Almost all full participants and some observers had responded to a questionnaire on basic telecommunications regimes; these had been reviewed in meetings of the Group.

30. Concerning the Negotiating Group on Maritime Transport Services (NGMTS), the WTO secretariat had examined the "Questionnaire on Maritime Transport Services". Only 9 out of 42 participants had not yet submitted their replies while only 1 out of 15 observer Governments had submitted its replies. All sets of replies to the 36 questions in the questionnaire had been included in a compilation. Six (European Union, Norway, Canada, Australia, New Zealand and Japan) had submitted conditional offers. The next meeting would take place from 30 October to 1 November 1995.

31. WTO also had other agenda topics in the area of services; groups were about to start work on safeguards, subsidies, and government procurement. The working group on professional services had started its work on accountancy services.

## Chapter II

## PROGRESS REPORT BY THE SECRETARIAT ON THE IMPLEMENTATION OF THE WORK PROGRAMME OF THE STANDING COMMITTEE, WITH SPECIAL EMPHASIS ON THE PREPARATION FOR UNCTAD IX

(Agenda item 5)

32. For consideration of this item, the Standing Committee had before it the following documentation:

> "Review of the work programme of the Standing Committee on Services with special emphasis on the preparation for UNCTAD IX" - Report by the UNCTAD secretariat (TD/B/CN.4/44).

33. In introducing TD/B/CN.4/44, the **Chief of the Services Section** referred to the demonstration of the revised MAST database which had taken place during an informal meeting; the various suggestions by delegations as to priorities had been noted. The secretariat would also give priority to those countries or regional or subregional secretariats which had indicated an interest in working with the MAST. With respect to the comprehensive analysis of service sectors in developing countries, the secretariat had drafted a questionnaire as requested at the second session, but given the difficulties anticipated in obtaining responses, it was considered advisable to first seek the views of the Standing Committee before having it circulated. With respect to the impact of subsidies on trade in services, in view of the additional tasks assigned at the last session, notably to prepare sectoral studies and collect information by means of a questionnaire, resources had not permitted the carrying out of sectoral studies. The progress report however contained additional analyses of the issue, particularly in the context of the commitments with respect to subsidies in the GATS schedules. The draft questionnaire sought information on both national subsidy measures and pertinent legislation dealing with subsidized service exports. The progress report also contained an analysis of the approaches to the incorporation of services into various regional integration arrangements as well as an assessment of developments in this respect. He then summarized the technical assistance activities of UNCTAD in the various regions, noting in particular the success of the CAPAS programme in Africa. He recalled that the recommendation of the Standing Committee to establish a trust fund in support of UNCTAD's technical assistance on services had been endorsed by the Trade and Development Board.

34. With regard to the conceptual framework for statistics on trade in services, the **Officer-in-charge of the Central Statistical Section of UNCTAD** highlighted a few salient developments. The UNCTAD secretariat was pursuing the ongoing conceptual and methodological work within the context of the Inter-Agency Task Force devoted to trade in services statistics in close cooperation with all other concerned agencies. The Task Force had accorded priority treatment to the statistical requirements of the General Agreement on Trade in Services (GATS). Participating agencies had agreed that a pragmatic approach, consisting of the adaptation of existing statistics to GATS needs was the only realistic one. Much of the effort in relation to GATS statistical requirements was aimed at trying to reconcile the proposed four modes of supply with the conceptual underpinnings of the fifth revision of the

balance-of-payments of the IMF and the new OECD/EUROSTAT trade in services classification to allow full use of existing data sources and to avoid establishing potentially conflicting methodologies and systems of classification. To date, however, no agreed text on methodology on trade in services statistics had been written. Further time and resources would also need to be devoted to the preparation of compilation guides and manuals to be issued in several major languages. The recent drop in technical assistance funds available to the United Nations Secretariat would further impede the introduction of new concepts and classification schemes with regard to economic statistics. In its efforts to advance the work in this area, the UNCTAD secretariat had offered to host the next meeting of the International Task Force on Trade in Services Statistics, to take place in Geneva in January 1996.

35. The representative of the **World Trade Organization** (WTO) noted that WTO was in charge of the implementation of the General Agreements on Trade in Services (GATS) whose objective was to create a stable and durable multilateral trading system in services. The GATS covered all commercial services; its definition of trade in services went beyond the common statistical concept of transactions between the residents of one country and non-residents. As a result, traditional statistical sources on trade in services failed to cover all the information needed. It was in this light that close cooperation with other agencies, including UNCTAD, had been initiated and the Task Force on Trade in Services Statistics created. WTO was carrying out studies related to the establishment of a statistical framework on trade in services. WTO was also currently preparing an analysis of possible and predominant modes of supply and associated statistical problems for each item of the OECD/EUROSTAT trade in services classification. However, there were still a number of issues and possible options on concepts, methodology and classifications to be discussed and agreed upon before such a statistical framework could be set up. Furthermore, despite important improvements embodied in the IMF, OECD and EUROSTAT guidelines and classifications, balance-of-payments statistics with regard to services still lacked country comparability and classification detail for GATS needs. WTO had recommended support for these guidelines and classifications and, at the same time, continuing its work towards a more complete statistical framework.

36. The representative of the **Russian Federation** emphasized that his country's interest in participating in the Standing Committee's work reflected the growing role of the services sector in the world economy and in the post-Uruguay Round international trading system, as well as the increasing importance of services to his country's economy, where the sector's share in GNP stood at over 50 per cent. Although it was too early to conclude that Russia's share of international trade in this sector would be significant, the aim of integrating Russia into the world economy naturally meant the expansion of participation of its services suppliers in the international division of labour. Achieving this objective would require international support. He commended the general high quality of the reports prepared by the secretariat, but noted that the economies in transition had been neglected. In the area of services, the problems of developing countries were somewhat akin to those experienced by Russia and so presumably the problems of developing various services sectors and export expansion were mainly identical in both groups of countries. The logical conclusion was that the activities of the Standing Committee should fully cover the relevant problems faced by the economies in

transition. The absence of consensus on this important matter could be attributed to a lack of understanding of common problems related to the development of services in developing countries and economies in transition or to the rather "stringent competition" among delegations in identifying the mandate of the Standing Committee. In his view, the understanding reached regarding consideration in UNCTAD of problems faced by the economies in transition, in view of preparations for UNCTAD IX, allowed the inclusion of such problems in the mandate of the Standing Committee. Doing so would make the Committee's work more comprehensive and balanced.

37. Work within the Committee on the identification and analysis of barriers to market access for services was obviously important both for members and non-members of WTO. In this context, he emphasized Russia's interest in the development of the MAST database. This database should cover the maximum number of countries, including Russia and other economies in transition. To this end, his delegation was prepared to engage in constructive cooperation with the secretariat aimed at a reciprocal exchange of information and adaptation of MAST for Russian-speaking users. Finally, he noted that Russia, like many developing countries and economies in transition, was interested in receiving technical assistance from the UNCTAD secretariat on such matters as development of services sectors, national policies in this area and expansion of competitive services exports. A possible UNCTAD trust fund for technical cooperation on services should also cover technical assistance to his country.

38. The representative of the **Organization of American States** (OAS) referred to the joint efforts of UNCTAD and his organization within the framework of the recently renewed Global Agreement of Cooperation. He underlined the importance of this cooperation to support the negotiation of free trade agreements in the region of the Americas, in particular the Hemisphere Initiative. Among the main areas of cooperation, building a database on measures, laws and regulations affecting trade in services figured prominently. In this regard, he underlined the paramount importance of UNCTAD's contribution to the transformation of the information system of the OAS, and to other areas including investments, anti-dumping rules, countervailing duties and subsidies. Services would be at the forefront of issues taken up at the next Ministerial Meeting in March 1996, when the trade ministers of the 34 member countries of the OAS would decide on the overall guidelines for negotiations on services in the establishment of the Free Trade Area of the Americas.

39. The representative of the **Dominican Republic** expressed satisfaction with the implementation of the work programme by the secretariat. Two elements of the progress report deserved special attention, he believed. The first was the ongoing work on the examination and definition of existing and possible integration strategies. This contribution was eagerly awaited as guidelines were urgently needed. Collaboration under way with OAS and the Central American Common Market secretariat needed to be extended to Latin America and other regions. The second element concerned work carried out at the regional, subregional and national levels on the impact of the Uruguay Round upon developing economies, and especially their service sectors. The LATINTRADE project has been a resounding success in that it had called attention to the wider implications of the Uruguay Round for the institutions, legislation and human resource requirements of the Latin American region. The same could be said of the work carried out at the national level. A national

study on the impact of the Uruguay Round agreements on the Dominican Republic had been carried out in 1994, identifying: (a) the institutional and legal reforms that required implementation once the Final Act had been ratified by the legislature, and (b) the market access opportunities opened in both trade in goods and services for the Dominican Republic's exporters. The diagnostic produced had served as a guideline for the reforms implemented in the foreign investment law in 1995 as well as for most sector-specific laws covering service sectors included in the Dominican Republic's Schedule of Liberalization of Services bound during the Uruguay Round. Notwithstanding the need for these important initiatives, they would no doubt face difficulties in implementation unless an operative mechanism was set up to make them possible. It was his country's experience that technical cooperation efforts were always required with great urgency but timely funding was often lacking. Hence the need to implement the trust fund which would enable technical assistance requests to be met. To this end, fund-raising efforts should begin immediately. Committee members could be mobilized to manage the fund-raising efforts as well as to guide the implementation of the Committee's mandate by means of a complementary Financial Plan. In closing he suggested that a 15-member executive committee be set up as soon as possible to oversee the proposal's implementation.

40. The spokesman of the **Latin American Group** (Brazil) noted the relevance of the work accomplished by the UNCTAD secretariat in implementing the work programme. His Group would endorse reinforcing UNCTAD's role so as to strengthen its capacity to assist developing countries to participate effectively in the negotiations on services at multilateral, regional and subregional levels, in coordination with the work done by international organizations which serve as a forum for these negotiations. Regarding the future work of UNCTAD, he underlined three main priorities. In promoting transparency, there was a need to coordinate with WTO and other international organizations in the conceptual and compilation work in the area of statistics. Completing the database MAST had his Group's full support as it would provide all the information needed to obtain a profile of measures affecting services trade in the countries of the region. He urged other members of the Standing Committee to collaborate in this endeavour. There was also a need for specific studies to reinforce and develop the negotiating capacity of developing countries according to the following priorities: (i) making the survey on subsidies as indicated in paragraphs 44 and 45 of TD/B/CN.4/43, including the setting up of a deadline for responding to the questionnaire; (ii) defining strategic guidelines to be used in WTO discussions on professional services and subsidies; (iii) evaluating the modalities on integration in services at the regional and subregional level; and (iv) identifying negotiating options on different categories of natural persons, including the identification of the main barriers set in the legislation of developed countries, taking as a point of departure the ideas expressed in paragraphs 80-81 and 100-101 of TD/B/CN.4/43. In the area of technical assistance, priority should be given to preparing national studies on services in developing countries, assessing the impact of the Uruguay Round and the ongoing negotiations on the economies of developing countries. In order to accomplish this task, it would be necessary to make the trust fund operational.

## Chapter III

### PROCEEDINGS OF THE 15TH (CLOSING) PLENARY MEETING

41. At its 15th plenary meeting on 29 September 1995, the Standing Committee on Developing Services Sectors: Fostering Competitive Services Sectors in Developing Countries adopted agreed recommendations and decided to annex them to the report of its third session (see annex I).

## Chapter IV

## ORGANIZATIONAL MATTERS

### A. Opening of the session

42. The third session of the Standing Committee on Developing Services Sectors: Fostering Competitive Services Sectors in Developing Countries was opened by Mr. Z. Baltacioglu (Turkey), in the absence of the Chairman of the second session.

### B. Election of officers

(Agenda item 1)

43. At the opening plenary of the third session, on 25 September 1995, the Standing Committee elected its bureau as follows:

| | | |
|---|---|---|
| Chairman: | Mrs. Magda Shahin | (Egypt) |
| Vice-Chairmen: | Mr. D. Sinha | (India) |
| | Ms. J. Stewart | (Jamaica) |
| | Mr. G.T. Senadhira | (Sri Lanka) |
| | Mr. M. Aaltola | (Finland) |
| | Mr. J. Piotrowski | (Poland) |
| Rapporteur: | Mr. Igor Vencel | (Slovakia) |

### C. Adoption of the agenda and organization of work

(Agenda item 2)

44. At its opening plenary, the Standing Committee adopted the provisional agenda for its third session (TD/B/CN.4/41), as follows:

1. Election of officers

2. Adoption of the agenda and organization of work

3. Ways of enhancing access to and use of information networks and distribution channels

4. Impact of progress liberalization and of service imports on the development of competitive services sectors, and the difficulties faced by developing countries which prevent them from increasing their participation in world trade in services

5. Progress report by the secretariat on the implementation of the work programme of the Standing Committee, with special emphasis on the preparation for UNCTAD IX

6. Other business

7. Adoption of the report of the Standing Committee to the Trade and Development Board.

## D. Adoption of the report of the Standing Committee to the Trade and Development Board

(Agenda item 7)

45. At its 15th (final) plenary meeting, the Standing Committee on Developing Services Sectors: Fostering Competitive Services Sectors in Developing Countries adopted the report of its third session as contained in document TD/B/CN.4/L.16 and Add.1 and 2 and authorized the Rapporteur to complete the report taking into account decisions taken at the session.

## Annex I

### AGREED RECOMMENDATIONS OF THE STANDING COMMITTEE

1. The increased participation of developing countries in world trade in services is essential for their deriving benefits from globalization and continuing to participate actively in the process of progressive liberalization of trade in services. To this end, the Standing Committee agreed that future work in UNCTAD should be oriented toward assisting developing countries to strengthen their capacities in the services sector and to identify clearly the opportunities for their services exports, as well as the barriers and impediments to their ability to compete in world markets. Work should focus on measures to overcome these difficulties, including by enhancing the negotiating capacity of developing countries in obtaining greater market access in sectors and modes of supply of export interest to them. Particular attention should be given to the problems of the least developed countries (LDCs) in strengthening capacities in the services sector.

2. Contributions to the Trust Fund should be encouraged in order to support timely technical cooperation activities as well as assisting developing countries in formulating policy measures to strengthen their capacities in production and trade in services.

3. It was agreed that future work could focus on the following issues while avoiding duplication with other intergovernmental bodies:

(a) The impact of subsidies, government procurement, safeguards and anti-competitive practices on development of competitive services sectors in developing countries and trade in specific service sectors and the improvement of information on current practices in these areas, taking into account the ongoing work in the WTO.

(b) Studying and analysing the trading opportunities made available as a result of market access commitments on temporary movement of natural persons in the General Agreement on Trade in Services (GATS) and the effectiveness of such access, as well as barriers which impede effective temporary movement of service suppliers.

(c) A sustained result-oriented approach in dealing with the problems faced by developing countries in enhancing their access to and use of information networks and distribution channels.

(d) Strengthening and making operational the Database on Measures Affecting Service Trade (MAST) with the cooperation of UNCTAD member States, international and regional organizations and the private sector. In this context, priority should be given to (i) areas of ongoing negotiations at the multilateral and regional level, (ii) responding to requests for cooperation from countries and regional and subregional arrangements and (iii) disseminating the MAST, in particular to the private sector.

(e) Studying how to achieve concretely the development objectives of GATS, in particular as provided for in Articles IV and XIX.

(f) The implications of environmental measures for the services trade of developing countries.

(g) Evaluation of modalities and policies aimed at promotion of regional, subregional and interregional cooperation on services, including among countries at different levels of economic development.

(h) The impact of economic integration arrangements on the service sectors of other countries, in particular on those of developing countries.

(i) The improvement of statistics on trade in services especially in the context of ongoing work in the Inter-Agency task force, with particular attention to the necessary conceptual work required for building a unified statistical system.

(j) Strengthening the technical assistance capacity of UNCTAD with the objectives of: (i) development of human resources and national capacity in services; (ii) organizing, developing and modernizing infrastructure; (iii) promotion of an environment that will attract private investment; (iv) improving negotiating capacity in the WTO, (v) support to developing countries in the ongoing negotiations on specific services sectors, and in the future negotiations on services foreseen in the GATS and (vi) development of an appropriate legal and regulatory framework conducive to the development of competitive services sectors taking into account developing countries' multilateral obligations. All UNCTAD technical assistance activities related to trade in services should be closely coordinated with other relevant organizations working in this field. In this regard, the Coordinated African Programme of Assistance on Services (CAPAS) project has proved to be highly fruitful and thus should be strengthened and expanded to incorporate the other African countries, in particular the LDCs. Similar projects should be developed and adapted to the needs of other developing countries.

(k) To study and analyse problems and opportunities faced by the interested countries undergoing transition to a market economy in improving the role of services in their economies, with a view to increasing their trade in services and identifying issues for possible international action.

## Annex II

## ATTENDANCE 1/

1. The following States members of UNCTAD were represented at the session:

Afghanistan
Algeria
Argentina
Bangladesh
Bolivia
Brazil
China
Côte d'Ivoire
Cuba
Democratic People's Republic of Korea
Dominican Republic
Ecuador
Egypt
El Salvador
Ethiopia
Finland
Germany
Ghana
Greece
Honduras
Hungary
India
Indonesia
Iran (Islamic Republic of)
Iraq
Jamaica
Japan
Kenya
Liberia
Libyan Arab Jamahiriya
Mauritius
Mexico
Morocco
Nepal
Netherlands
Nigeria
Poland
Romania
Russian Federation
Slovakia
Spain
Sri Lanka
Switzerland
Thailand
Trinidad and Tobago
Tunisia
Turkey
United Kingdom of Great Britain and Northern Ireland
United Republic of Tanzania
United States of America
Venezuela
Viet Nam

2. The following other States members of UNCTAD were represented as observers at the session:

Madagascar
Namibia
Qatar
South Africa
Former Yugoslav Republic of Macedonia

3. The International Trade Centre UNCTAD/GATT was represented at the session.

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1/ For the list of participants, see TD/B/CN.4/INF.9.

4. The following specialized agencies were represented at the session:

International Labour Organization
International Monetary Fund
International Telecommunications Union
United Nations Industrial Development Organization

The World Trade Organization was also represented.

5. The following intergovernmental organizations were represented at the session:

African, Caribbean and Pacific Group of States
Agency for Cultural and Technical Co-operation
Arab Labour Organization
Asia-Pacific Telecommunity
Caribbean Community
Commonwealth Secretariat
European Community
Organization for Economic Co-operation and Development
Organization of African Unity
World Tourism Organization

6. The following non-governmental organizations were represented at the session:

General Category

International Chamber of Commerce
World Association of Small and Medium Enterprises
World Federation of United Nations Associations

Foundation for the Promotion of Automated Information attended at the special invitation of the secretariat.

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UNITED NATIONS CONFERENCE ON TRADE AND DEVELOPMENT

# Report of the Standing Committee on Developing Services Sectors: Fostering Competitive Services Sectors in Developing Countries - Insurance on its third session

held at the Palais des Nations, Geneva,
from 13 to 17 November 1995

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## INTRODUCTION

1. The Standing Committee on Developing Services Sectors: Fostering Competitive Services Sectors in Developing Countries: Insurance held its third session at the Palais des Nations, Geneva, from 13 to 17 November 1995.

2. In the course of its session, the Standing Committee held two formal plenary meetings (9th-10th meetings) and seven informal meetings.

**Opening statements**

3. The **Chairman** said that insurance had become an essential mechanism of modern societies for the protection of persons and goods. In a majority of countries, the insurance sector had also become a major institutional investor, and as such its role in development and economic growth could not be ignored, either at the country level or at the international level.

4. With regard to agenda item 3, prudential regulation and measures for the protection of insurance consumers within the framework of market liberalization merited strong support. The quasi monopoly situation which had recently still existed in many developing countries had left supervisory authorities with only a secondary role, which was often limited to the compilation of statistics. The establishment of a competitive market required a profound change in regulations and in the methods and spirit of supervision. The new rules had to be clear, equitable and transparent, and they had to create a favourable environment for the development of the insurance sector, free of excessive constraints which could discourage the investment of capital and expertise, in particular as regards foreign operators in the sector.

5. With regard to agenda item 4, he felt that, beyond the established knowledge of the international markets which covered catastrophic risk, much remained to be done in many countries to better determine the technical foundations on which this type of insurance rested. It was not possible to establish a viable premium rate without knowing the extent of the risks and the values and the accumulation of goods exposed to such events. The UNCTAD studies in this respect were revealing and of high didactic value.

6. The UNCTAD secretariat had also prepared background documents on credit guarantee funds for SMEs in developing countries and on the financial implications of agricultural insurance, and he hoped that the Committee could approach these subjects, which also formed part of its work programme. Finally, he drew attention to the fact that the cycle of meetings set up by UNCTAD VIII in Cartagena had come to an end and that an evaluation of the work completed by the Committee would thus be necessary.

7. The **Deputy to the Secretary-General of UNCTAD** said that the work of UNCTAD in the field of insurance was based on the conviction that there was a positive synergy between the development process and the prevalence of insurance. In that connection, UNCTAD IX would examine the opportunities, as well as the risks, for growth and development offered by globalization and liberalization. The three substantive topics of UNCTAD IX were highly relevant to the work of the Standing Committee; they were development policy and strategy in an interdependent world, promoting international trade as an instrument for development, and promoting enterprise development. Because of

its implications for development, insurance should be an integral component of development policy and strategy. Regarding trade, the issue of insurance as a promoter of trade efficiency was a fundamental one. Insurance was also an instrument that helped mitigate the inevitable risks that entrepreneurship carried.

8. The forces of nature remained a serious threat to the economic progress of many developing countries. The development process created and supported the trend towards the concentration of property and population in industrial and urban areas and critically enlarged catastrophic risk and the risk of environmental degradation. This created the need for government policy responses and national risk management for catastrophes and large risks.

9. The human resources in the insurance sectors of many developing countries required upgrading, and important fields in that respect would include credit and creditor insurance, product liability insurance, product distribution, underwriting skills, actuarial skills and surveying. Management and supervision of investment required competent human resources in both insurance undertakings and government supervisory offices.

10. Finally, he emphasized that recommendations for technical cooperation activities should be matched with commitments for financial support.

## Chapter I

### REVIEW OF CRITICAL AREAS WITH REGARD TO INSURANCE LEGISLATION, REGULATION AND SUPERVISION

(Agenda item 3)

### PROBLEMS FACED BY DEVELOPING COUNTRIES AND COUNTRIES IN TRANSITION IN THE AREA OF INSURANCE AGAINST CATASTROPHE PERILS

(Agenda item 4)

### REVIEW OF PROGRESS MADE ON THE WORK PROGRAMME, IN THE CONTEXT OF PARAGRAPH 76 OF THE CARTAGENA COMMITMENT

(Agenda item 5)

11. For its consideration of these agenda items, the Standing Committee had before it the following documentation:

"Establishment of effective insurance regulatory and supervisory systems - study by the UNCTAD secretariat" (TD/B/CN.4/52) (agenda item 3);

"Regulation and supervision of insurance operations: analysis of responses to a questionnaire and possible elements for establishing an effective supervisory authority - background information by the UNCTAD secretariat" (UNCTAD/SDD/INS/10) (agenda item 3);

"Report of the Expert Group on Insurance Supervision and Regulation" (UNCTAD/SDD/INS/12) (agenda item 3);

"A summary of the major components and structures for catastrophe insurance schemes - study by the UNCTAD secretariat" (TD/B/CN.4/54) (agenda item 4);

"A ten-country analysis of catastrophe exposure, insurance sector and country financial capacity to bear risk - background document by the UNCTAD secretariat" (UNCTAD/SDD/INS/8) (agenda item 4);

"Comparative examples of existing catastrophe insurance schemes - background document by the UNCTAD secretariat" (UNCTAD/SDD/INS/11) (agenda item 4);

"Review of activities of the secretariat pertaining to the work programme - report by the UNCTAD secretariat" (TD/B/CN.4/53) (agenda item 5);

"Creditor guarantee funds for the benefit of small and medium enterprises (SMEs) in developing countries" (UNCTAD/SDD/INS/7) (agenda item 5);

"Financial implications of agricultural insurance - a background note prepared by the UNCTAD secretariat" (UNCTAD/SDD/INS/9) (agenda item 5).

12. The **Chief of the Insurance Programme** said that the global economy presented an infinite number of problems related to the distribution and management of risks resulting from movements of goods and capital. Insurance was a necessary instrument for many developing country entrepreneurs if they were to capture some of the multiple opportunities that global trade and investment offered. Insurance was therefore a key to developing countries' participation in global trade.

13. With regard to the work programme, an analysis of the progress achieved under the general headings of promoting transparency and fostering competitive services indicated that the Standing Committee had fulfilled its mandates. With regard to agenda item 3, the main focus of the secretariat's documentation was the establishment of effective supervision to ensure the financial stability and long-term viability of insurers in the context of privatization and liberalization. Concerning item 4, the secretariat's reports provided an illustration of information which had to be gathered before catastrophe insurance could be implemented. Under item 5, the documentation reviewed issues not included under items 3 or 4, such as credit insurance and the financial implications of agricultural insurance. It also suggested possible areas for future work.

14. Finally, she pointed out that the secretariat had been unable to satisfy certain technical cooperation requests due to a shortage of funding. The establishment of a trust fund that would allow long-term planning and targeting of needs would be helpful in that respect.

15. The representative of **Spain**, speaking of behalf of the **European Union**, said that, for the insurance market to evolve in developing countries and countries in transition, priority had to be given to the establishment of effective control and legal systems, including suitable authorization requirements, appropriate measures on solvency and technical provisions, specific measures for the correct management of insurance companies and the practical organization of staff, the progressive liberalization of the market and accelerated programmes to privatize and dismantle monopolies, all aimed at enhanced consumer service and protection. Account also had to be taken, according to the degree of development and modernization of each market, of the need to establish processes for prior control of tariffs and products by the public authorities. The European Union would be intensifying its efforts along these lines, concentrating its activity on matters where it enjoyed a comparative advantage.

16. The UNCTAD study on catastrophe insurance clearly stated that much of the basic data necessary for the development of insurance mechanisms already existed in many countries, but this information had not yet been fully brought together and was not easily accessible, which was essential to define the dimensions and features of the schemes to be implemented. Emphasis had to be given to the urgent need to find solutions to the economic and human consequences arising from the occurrence of catastrophic events, particularly if predictions concerning climatic change and increases in the frequency and intensity of disasters were fulfilled; such events had recently very seriously compromised the capacities of insurance markets and national budgets, even in highly developed countries. The urgency in introducing minimal basic schemes not only arose from the spectacular increase in loss frequencies but was also closely linked to the priority objective of "safe development", including

sustainable development and environmental protection. The European Union had valid references in this area in terms of highly developed systems and of others recently introduced, and it was keen to demonstrate its willingness to participate in cooperation programmes.

17. As to the programme of work, he particularly applauded the statistical analysis carried out on insurance and reinsurance operations and the examination of events in the insurance and reinsurance fields. The first of these had to continue in order to analyse trends in insurance sectors, since it was not enough just to examine the situation at one point in time. The Committee had to base its work on documents providing a precise, up-to-date and detailed view making it possible to measure the progress in the markets concerned and to accelerate their development. It would likewise be excellent if the establishment of the proposed electronic database could be made a reality, along with cooperation with other organizations such as EUROSTAT and OECD.

18. The Committee had to continue to ensure high standards in terms of both the quality and focus of its discussions. He thought it appropriate to continue the study of specific aspects which would contribute to the knowledge and development of the insurance industry and to take up matters tabled by the secretariat or any other of interest to the Committee. Finally, he reminded the secretariat of the need for documents to reach delegations in due time and in the official languages.

19. The representative of **Chile** said that a regulatory system should play the dual role of protecting the interests of policy-holders and ensuring the security of the insurance market. In addition, the regulatory system should contribute to the growth and development of the insurance industry, and to this end there must be adequate policies based on the two supporting pillars of solvency and transparency.

20. In Chile, the liberalization of the insurance market had required adjustments to be made in the relevant legislation. No longer involved in rate setting, insurance legislation now concentrated on strengthening solvency through initial capitalization requirements, ensuring investors had sufficient financial resources. Measures had also been taken in relation to the maintenance of technical reserves and shareholders' funds, as well as in respect of eligible assets. Insurance companies' investment policies had to comply with the legislative framework. The capital structure of insurance companies was also regulated, with maximum permitted gearing ratios. Life and non-life insurance operations and funds had to be maintained as separate entities. As asset and liability management became daily more complex, other relevant regulations relating to financial markets and new financial instruments also came into play.

21. The Chilean market had benefited from well developed transparency, with public quarterly reporting of results and public registers of insurance policies, insurers, brokers and foreign insurers. All changes had to be notified immediately to the authorities, and the public had access to all available information. The use of independent auditors and insurers' rating agencies contributed to the growth of transparency.

22. The expansion of life insurance and pension funds had to be a major reason for the growth of the Chilean capital markets, as pensions and social security had been transferred from the public to the private sector. They were now the main capital providers, and as a result of the stimulation of the growth of its capital markets, Chile was now less dependent on foreign capital and less affected by international financial crises.

23. The data available on the insurance sector in Chile demonstrated the very significant growth of the sector since deregulation during the period 1980-1994, as well as of the assets and operations of pension funds and insurance companies.

24. The representative of **China** said that for many developing countries insurance was still an emerging industry, and its level of development still lagged far behind that of the insurance sector in developed countries. The developing countries therefore urgently needed wide-ranging international cooperation in order to raise their level of insurance management, improve their ability in insurance operations, and enhance the quality of their insurance personnel. The direction taken by UNCTAD in developing technical assistance and in the exchange of experience in the field of insurance was certainly a welcome one.

25. With regard to his country, the insurance industry in China was a late-starter where the basic structure of an insurance market had barely taken shape and consisted of single-ownership State companies, limited-liability corporations and foreign-capital companies. In order to strengthen and perfect its control over the insurance market, China had recently promulgated its first insurance legislation, which took into account international insurance practice as well as the specifics of China's insurance industry, with emphasis on the monitoring of solvency requirements and regulation of market behaviour.

26. China regarded catastrophe insurance as an important means of defence against natural disasters, and in view of the ongoing changes in China's insurance industry, was prepared to borrow useful experiences in the field of catastrophe insurance from all countries and regions in order to develop a form of catastrophe insurance particularly suited to China.

27. He recognized that much work had been done by UNCTAD in the field of insurance since the inception of the Committee, and UNCTAD, as the only organ within the United Nations system entrusted with the task of research and technical cooperation in insurance, should continue and strengthen its work in this area. The recommendation by the secretariat to establish an insurance trust fund for the financing of future projects deserved support.

28. With regard to a future work plan, three areas should be emphasized. Firstly, training of personnel: to varying degrees, the insurance industry in developing countries suffered from lack of expertise, and the Committee could formulate concrete plans to enlist insurance specialists from various countries to train insurance personnel from developing countries. Priority could be given to training inspectors for assessing flood damage, inspectors for insuring construction projects and legal personnel for the settlement of insurance claims. Secondly, cooperation for the development of insurance policies: the development of policies was an important task in the insurance

industry. The Committee could develop or compile samples of policies in some major insurance categories such as floods, fire and construction, for use as reference by members. It could also hold workshops for the exchange of experiences on these subjects. And thirdly, insurance of major projects: with the development of the national economy and increasing foreign investment in developing countries, the number of major projects in these countries had also continuously increased. Many countries still lacked experience and knowledge in fields such as how to determine appropriate premiums, how to arrange for reinsurance, etc. The Committee could strengthen exchanges, coordination and cooperation in this area.

29. The representative of **Jordan** gave a brief overview of changes in his country's insurance regulations and legislation from 1950 to 1995, followed by a description of the present market structure. With regard to the work of the Standing Committee, more attention could be given to the particular problems of developing countries in the context of catastrophe insurance. Concerning the discussion on regulation and supervision, fraud was a problem, as well as legal mistakes committed within the framework of insurance practice. Sometimes policies themselves were legally flawed. This, together with the low purchasing power of the majority of the population in developing countries, represented a real hindrance to the faster growth of insurance markets.

30. The representative of **Egypt** gave a short account of the development of the insurance industry in his country, where the first national insurance company, which was also the first one for Africa and the Middle East, had been founded in 1900. The first national Egyptian reinsurance company had been established in 1957, and in 1961 all insurance companies had been nationalized and their number reduced through the incorporation of smaller companies into the bigger ones. In 1974, in the first phase of the opening up of the economy, foreign insurance companies had been permitted to operate in the economic free zone. In 1980 the law had been amended to allow private ownership of insurance companies; they had, however, to be completely Egyptian owned. The insurance law had been amended again in 1995 and now permitted foreign ownership of 49 per cent of the capital of direct insurance companies and 100 per cent of reinsurance companies.

31. While formerly a system of controlled tariffs had been used, this had now been replaced by a commission responsible for the regulation and supervision of the insurance industry; the commission had the power to liquidate insolvent or mismanaged companies which did not observe the rules. The same was the case for reinsurance. Foreign companies could now operate in Egypt provided they were registered with the supervisory authority.

32. The representative of the **African Insurance Organisation** (AIO) recognized the important support UNCTAD's Insurance Programme had given to developing countries, especially in Africa, over the last 30 years. The continuation of this Programme was vital to Africa, since insurance was an important vehicle for development, as well as for promoting international trade. UNCTAD's role had become particularly important, as it was the only body in the United Nations system that provided expertise and assistance to developing countries in the field of insurance.

33. With regard to a future work programme, Africa needed UNCTAD's support in five areas. Firstly, in respect of agricultural insurance, a project proposal on a Regional Agricultural Insurance Programme had been prepared in collaboration with UNCTAD, and it should be realized in the next two years. Secondly, in human resources development, a proposal for a Regional Education and Training Programme had been submitted to UNCTAD which aimed at capacity-building at the national, subregional and regional levels. Thirdly, life insurance could play a key role in promoting savings to finance development needs, and UNCTAD had an important role to play in this area. Fourthly, in the field of catastrophe insurance, risk mapping was an essential feature in managing catastrophic risks in the developed world, and Africa needed to do its share in this regard. A dialogue had been started with UNCTAD to help launch a regional project on risk mapping. And fifthly, the Insurance Programme had requested countries and Governments to pledge financial support for its work programme, which was primarily aimed at trade promotion through the creation of competitive insurance markets in developing countries: he pledged to make a financial contribution to the Insurance Programme to enable it to continue its activities in that respect.

**Informal discussions**

34. The Standing Committee pursued its deliberations in informal meetings. In the course of these informal meetings, a number of presentations were made by invited panellists. (For a list of the panellists, see annex II.)

**Action by the Standing Committee**

35. At its 10th (closing) plenary meeting, on 17 November 1995, the **Standing Committee** adopted draft agreed conclusions on agenda items 3, 4 and 5. (For the text of the agreed conclusions, see annex I.)

**Closing statements**

36. The representative of **Spain**, speaking on behalf of the **European Union**, said that, through its work on insurance and reinsurance, the Standing Committee had contributed to the basic objective of UNCTAD, which was to promote international trade and, through trade, economic development in general and of the developing countries in particular.

37. The representative of **China** said that the role of insurance in developing countries was increasingly important and many countries were trying to strengthen their insurance sector. UNCTAD had contributed greatly to the promotion of the insurance sector in developing countries, and it was to be hoped that it would increase its efforts in that respect.

38. The representative of **Bolivia** said that the Standing Committee had once again proven its usefulness to member States. At its third session, it had made important progress, and it was to be hoped that the results of the session would benefit the insurance market.

39. The representative of **Sri Lanka** said that the documents prepared for the Standing Committee's session would be extremely useful to his country in drafting new insurance legislation.

40. The **Officer-in-Charge of the Services Development and Trade Efficiency Division** said that the Standing Committee had achieved all the goals it had set itself at the beginning of its session. Many delegations had highlighted the uniqueness of and necessity for the Standing Committee's sessions on insurance, as well as the Committee's contribution to improving mutual understanding and cooperation in the field of insurance. It had been seen that securing successful liberalization of insurance markets required the establishment of legal and supervisory frameworks focusing, in particular, on prudential and consumer protection measures adapted to economic and political conditions and management cultures. Advancing insurance awareness and improving the technical abilities of insurance operators was also paramount to the effective functioning of competitive insurance markets. The role of credit insurance in the development of small and medium-size enterprises had been reviewed and supported, and guidance had also been provided for the development of catastrophe insurance schemes. Since the implementation of agreed future areas of work was dependent upon acceptance by the Trade and Development Board and UNCTAD IX of the principle of pursuing UNCTAD's work in the field of insurance, delegations with a firm interest in seeing that work continue should emphasize the importance of the contribution of insurance to trade and to economic and social development.

41. The **Chairman** said that insurance was a key for economic development, particularly in the fields of agriculture, small and medium-size enterprises, catastrophes and life itself, and it was an indispensable engine for progress towards liberalization. However, it was important to have a framework that respected the aspirations and means of all. The first goal was to protect the consumer, and to that end it was essential to improve the competence of the staff of both insurance companies and supervisory authorities through training, information and cooperation. In addition, it was important to ensure, through legislation, the independence of supervisory authorities and to achieve a balance between competing parties through technical cooperation and mutual respect, since without such balance there could be no genuine liberalization.

## Chapter II

## ORGANIZATIONAL MATTERS

### A. Opening of the session

42. The third session of the Standing Committee on Developing Services Sectors: Insurance was opened by Mr. Fernando Jaime Moscoso Salmon (Bolivia), Chairman of the Standing Committee at its second session.

### B. Election of Officers

(Agenda item 1)

43. At the opening plenary meeting of its third session, on 13 November 1995, the Standing Committee elected its bureau as follows:

| | | |
|---|---|---|
| Chairman: | Mr. Jean-Louis Bellando | (France) |
| Vice-Chairmen: | Ms. Monica Caceres Ubilla | (Chile) |
| | Ms. Isabel Corona | (Spain) |
| | Mr. M. Kanapathipillai | (Sri Lanka) |
| | Mr. Mohammed Kari | (Nigeria) |
| | Mr. Boguslaw Sosnowski | (Poland) |
| Rapporteur: | Mr. Edo Syarifuddin | (Indonesia) |

### C. Adoption of the agenda and organization of work

(Agenda item 2)

44. The Standing Committee then adopted its draft provisional agenda (TD/B/CN.4/51), as follows:

1. Election of officers

2. Adoption of the agenda and organization of work

3. Review on critical areas with regard to insurance legislation, regulation and supervision

4. Problems faced by developing countries and countries in transition in the area of insurance against catastrophe perils

5. Review of progress made on the work programme, in the context of paragraph 76 of the Cartagena Commitment

6. Other business

7. Adoption of the report of the Standing Committee, Insurance, to the Trade and Development Board.

## D. Adoption of the report of the Standing Committee, Insurance, to the Trade and Development Board

(Agenda item 7)

45. At its 10th (closing) plenary meeting, on 17 November 1995, the Standing Committee adopted its draft report as contained in document TD/B/CN.4/L.18, subject to any amendments that delegations might submit to the summaries of their statements, and authorized the Rapporteur to complete the text of the report to reflect the proceedings of the closing plenary.

## Annex I

### AGREED CONCLUSIONS

1. The Standing Committee on Developing Services Sectors: Fostering Competitive Services in Developing Countries - Insurance, at its third session, held from 13 to 17 November 1995, reviewed the accomplishments achieved under the comprehensive work programme established at its first session, and commended the work undertaken by the UNCTAD secretariat, as well as the quality of the documents submitted. It was noted that discussions had greatly benefited from the participation of experts and private sector representatives.

2. UNCTAD is the only United Nations forum dealing with insurance issues. Recognizing its importance for the economies of developing countries and countries in transition, the Standing Committee, in accordance with paragraph 76 of the Cartagena Commitment and without prejudice to any decisions which may be taken by UNCTAD IX or by the Trade and Development Board, agrees that the work in the field of insurance services should be continued and that future work should focus, inter alia, on the following issues:

**A. Establishment of an appropriate framework for the functioning of a competitive market**

3. It should be recognized that, for a successful liberalization of insurance markets, a legal and supervisory framework focusing in particular on prudential and consumer protection measures should be in place, as well as insurance regulation and supervision adapted to local conditions and the political and management cultures and circumstances prevailing in a country.

4. Guidance and assistance should be provided on request to countries for the establishment of legal, supervisory and market environments in which there is effective competition. This would involve action at all levels:

(i) Action at government level includes the need to foster a secure and stable financial environment through legislative measures. These should encompass improvement of transparency and availability of information, and monitoring of solvency and market conduct of insurers. Effective monitoring requires improving the competence of staff of supervisory authorities.

Issues relating to new participation in countries' domestic markets and their effective regulation should be addressed. In this respect cooperation between different countries' supervisory authorities should be studied.

(ii) At the corporate level, to enhance the competitiveness of insurance companies, action would involve improvement of the technical abilities of staff of the insurance sector through training in the areas inter alia of corporate management, contract negotiation,

underwriting, reserving and investment practices. Action addressing the need for improvements in the area of marketing, distribution and information gathering systems and loss prevention measures should also be considered.

(iii) At the level of the general public, in order to spread the contribution of insurance to national and personal well-being, action is necessary to improve public awareness and understanding of the uses of insurance and its related benefits. Use of and collaboration with grass-roots organizations such as mutuals and cooperatives and establishment of information and advisory bureaux could be considered in this respect. Mechanisms to protect insurance consumers' interests, and in particular to handle policy-holders' complaints, should also be established.

(iv) The overall contribution of insurance to social and economic development, in particular the role of life and long-term insurance, and the linkage between the development of insurance and other financial services such as banking and investment markets, should be investigated.

The impact of the implementation of free trade in insurance markets of developing countries and countries in transition needs to be assessed and analysed.

(v) More specifically, due to their direct impact on the increase of trade and investment of developing countries, possibilities relating to export credit and credit insurance should be further explored.

**B. Catastrophe insurance**

5. Recognizing that catastrophe insurance is needed to address the severe risks which many countries face from both man-made and natural disasters:

(i) Measures should be taken to develop a partnership between insurers, reinsurers and the State to address issues of catastrophe insurance;

(ii) Assistance should be provided in the area of training for prevention and control of catastrophic events. Setting-up of statistical information networks, through joint cooperation, and the establishment of basic catastrophe insurance schemes should also be considered;

(iii) A methodology should be developed for formulating insurability criteria relevant to developing countries and countries in transition with regard to their particular market size, insurance density and the profile of their national assets, for the insurance of catastrophes.

(iv) Risk exposures and perils should be structured in terms of size and frequency and consideration should be given to methods of increasing participation by local insurance companies in specified categories of risks directly or through operation of a pool, provided this is not in contradiction with free trade and contract negotiations.

## C. Specific needs of developing countries

6. Appreciating the work done so far by UNCTAD's insurance programme and in view of the importance of UNCTAD's assistance to developing countries in improving their competitiveness, the Standing Committee calls upon UNCTAD to assist these countries in developing insurance schemes that advance their economic development, especially agriculture and life insurances. UNCTAD should further assist these countries in developing comprehensive insurance training and education programmes to cover training of trainers and of professionals who run both the insurance industry and their supervisory authorities.

## D. Information and technical assistance

7. Given the importance of the exchange of information related to legislative changes and developments affecting insurance markets, the UNCTAD secretariat is requested to further improve the dissemination of available information through the publication of newsletters and the use of electronic tools. In particular, the statistical survey should be pursued utilizing an electronic database to further strengthen the ability for analysis of trends and progress in the insurance sectors of developing countries.

8. In view of the importance of technical assistance activities to implement the findings of the studies in the above-mentioned areas, and in particular agricultural insurance schemes, and to expand existing or establish new training programmes, and taking into account the financial difficulties, the Standing Committee would greatly appreciate support for such projects by potential donors and recommends that the Trade and Development Board consider the establishment of a trust fund for specific tasks.

## Annex II

## LIST OF PANELLISTS

Agenda item 3

Ms. Monica Caceres Ubilla, Insurance Supervisory Authority, Santiago, Chile
"The role of supervisory authorities in the development of an efficient insurance market: the Chilean experience"

Mr. Harold D. Skipper, Professor of Risk Management and Insurance, Georgia State University, Atlanta, Georgia, United States
"The role of foreign insurers in the insurance markets of developing countries"

Mr. Mario Kakabadse, Counsellor, Trade in Services Division, World Trade Organization, Geneva, Switzerland
"GATS and insurance services"

Agenda item 4

Mr. Mohamed Elteir, Chairman, Egyptian Reinsurance Company, Cairo, Egypt

Mr. Herbert Haag, Chief Executive, Partner Reinsurance Company, Hamilton, Bermuda

Mr. Leslie Lucas, Chief Executive, Pool Reinsurance Company, London, United Kingdom

Mr. Werner Schaad, Head of Natural Catastrophe, Swiss Reinsurance Company, Zurich, Switzerland

Mr. Ernst Leffelaar, Manager of Treaty Underwriting Services, Cologne Reinsurance Company, Cologne, Germany

Agenda item 5

Mr. Jean Bastin, President, Namur Assurances du Crédit and Technical Credit Insurance Consultants, Brussels, Belgium
"Creditor guarantee funds for SMEs"

## Annex III

### MEMBERSHIP AND ATTENDANCE 1/

1. The following States members of UNCTAD were represented at the session:

Algeria
Bolivia
Chile
China
Costa Rica
Côte d'Ivoire
Democratic People's Republic of Korea
Denmark
Dominica
Ecuador
Egypt
El Salvador
Finland
France
Germany
Ghana
Greece
India
Indonesia
Iraq
Italy
Japan
Jordan
Kenya
Mali
Mauritius
Mexico
Morocco
Nepal
Netherlands
Nigeria
Pakistan
Philippines
Poland
Republic of Korea
Romania
Russian Federation
Senegal
Spain
Sri Lanka
Switzerland
Thailand
Trinidad and Tobago
Tunisia
Turkey
United Kingdom of Great Britain and Northern Ireland
United Republic of Tanzania
United States of America
Zambia
Zimbabwe

2. The following other States members of UNCTAD were represented as observers at the session:

Albania
Bahamas
Fiji
Gabon
Madagascar
Namibia
Portugal
The Former Yugoslav Republic of Macedonia

3. The Economic Commission for Europe was represented at the session. The International Trade Centre UNCTAD/GATT was represented at the session.

4. The following specialized agencies were represented at the session:

International Monetary Fund
World Trade Organization

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1/ For the list of participants, see TD/B/CN.4/INF.10.

5. The following intergovernmental organizations were represented at the session:

European Community
League of Arab States
Organisation for Economic Co-operation and Development
Organization of African Unity

6. The following non-governmental organizations were represented at the session:

General Category

African Insurance Organization
International Co-operative Alliance
International Chamber of Commerce
International Federation of Business and Professional Women

Special Category

Association of Export Credit Insurance Organizations
International Association of Insurance and Reinsurance Intermediaries

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